

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	File No. EB-02-AN-069
Antenna Registration Number: 1059096	)	NAL/Acct. No. 20033278001
Union Oil Company of California	)	FRN # 0001-535-541
POB 196247	)	
Anchorage, AK 99501	)	

**ORDER**

**Adopted: August 4, 2004**

**Released: August 6, 2004**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Union Oil Company of California (“Unocal”). The Consent Decree terminates the forfeiture proceeding initiated by the Enforcement Bureau against Unocal for its apparent failure to comply with the requirements set forth in Sections 17.4(g) and 17.23 of the Commission’s Rules (“Rules”).<sup>1</sup>

2. The Enforcement Bureau and Unocal have negotiated the terms of a Consent Decree that would resolve this matter and terminate the forfeiture proceeding. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. Based on the record before us, we conclude that no substantial or material questions of fact exist with respect to this matter as to whether Unocal possesses the basic qualifications, including those related to character, to hold or obtain any FCC license or authorization.

4. After reviewing the terms of the Consent Decree, we find that the public interest will be served by adopting the Consent Decree and terminating the forfeiture proceeding.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Sections 0.111 and 0.311 of the Rules,<sup>3</sup> the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the Enforcement Bureau’s forfeiture proceeding against Unocal **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that Union Oil Company of California shall make its voluntary contribution to the United States Treasury, as specified in the Consent Decree, by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the

<sup>1</sup> 47 C.F.R. §§ 17.4(g) and 17.23. See *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 20033278001 (Enf. Bur., Anchorage Office, released January 31, 2003).

<sup>2</sup> 47 U.S.C. §§ 4(i) and 503(b).

<sup>3</sup> 47 C.F.R. §§ 0.111, 0.311.

Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 20033278001 and FRN 0001-535-541.

8. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Unocal's counsel, Shannon W. Martin, Esq., Lane Powell Spears & Lubersky, LLP, 420 L Street, Suite 300, Anchorage, Alaska 99501-1971.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

**CONSENT DECREE**

The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) and Union Oil Company of California (“Unocal”) hereby enter into this Consent Decree regarding possible violations of Sections 17.4(g) and 17.23 of the Commission’s Rules (“Rules”) concerning Unocal’s operation of its registered antenna structure, Antenna Structure Registration (“ASR”) number 1059096, located in the Swanson River oil field 15 miles north of Sterling, Alaska (the “Tower”).

**Background**

1. On May 13, 2002, Unocal engaged Nolan Bros. to conduct an inspection of the Tower. Nolan Bros.’ report of that inspection did not note any FCC violations.

2. On August 15, 2002, the Anchorage Office issued an *Official Notice of Violation* (“NOV”) to Unocal, specifying violation of Sections 17.4(g) and 17.23 of the Rules. On September 3, 2002, Unocal provided a written statement and timeline notifying the FCC of its intent to remedy the matters specified by the NOV. Concomitantly, Unocal contacted its tower inspection and maintenance contractor, Nolan Bros., and requested the required changes be made immediately. The changes were made on or before September 30, 2002, and the Tower is currently in compliance with 47 C.F.R. § 17.4 (g) and 47 C.F.R. § 17.23.

3. On January 31, 2003, the Anchorage Office issued a *Notice of Apparent Liability For Forfeiture*<sup>4</sup> to Unocal (the “NAL”) in the amount of twelve thousand dollars (\$12,000) for the apparent willful and repeated violations of Sections 17.4 (g) and 17.23 of the Rules by failing to post its ASR number and to maintain proper antenna structure lighting.

4. Unocal timely responded to the NAL on February 27, 2003.

5. Unocal has no history of prior offenses — the NOV was Unocal’s first indication of any violations of FCC regulations.

**Definitions**

6. For purposes of this Consent Decree, the following definitions shall apply:

(a) “Commission” means the Federal Communications Commission.

(b) “Bureau” means the Enforcement Bureau of the Commission.

(c) “Unocal” means Union Oil Company of California.

(d) “Parties” means Unocal and the Bureau.

(e) “Enforcement Proceeding” means the investigation of the alleged Rule violations by Unocal culminating in the *Notice of Apparent Liability for Forfeiture*.

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<sup>4</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 20033278001 (Enf. Bur., Anchorage Office, released January 31, 2003).

(f) Notice of Apparent Liability for Forfeiture or “NAL” means *Union Oil Company of California*, NAL/Acct. No. 20033278001 (Enf. Bur., Anchorage Office, released January 31, 2003).

(g) “Rules” means the Commission’s Rules found in Title 47 of the Code of Federal regulations.

(h) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*

(i) “Adopting Order” means an order of the Bureau adopting this Consent Decree.

(j) “Effective Date” means the date the Adopting Order is released by the Bureau.

(k) “Compliance Plan” means the processes and procedures developed by Unocal in an effort to ensure compliance with the FCC’s Rules regarding antenna structures registered in accordance with 47 C.F.R. § 17.4, as summarized in Appendix “A,” attached to this Consent Decree.

### Terms of Settlement

7. The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

8. The Parties agree that this Consent Decree shall become binding on the Parties on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other final order of the Commission and any violation of the terms or conditions of this Consent Decree shall constitute a violation of a Commission order.

9. Unocal acknowledges that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

10. The Parties waive any rights they may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided that the Adopting Order adopts the Consent Decree without change, addition or modification.

11. Unocal waives any rights it may have under any provision of the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

12. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination of any compliance or noncompliance with the Act or the Rules. The Parties further agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Unocal does not admit or deny any liability for violating the Rules in connection with the matters that are the subject of this Consent Decree.

13. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees to terminate the Enforcement Proceeding at such time as both Parties sign this Consent Decree and the Bureau adopts this Consent Decree.

14. Unocal agrees to implement its Compliance Plan covering tower acquisitions, construction or alteration of towers, monitoring of lighting, records of light outages, *NOV* responses and training (summary of Compliance Plan attached as Appendix “A.”) Unocal may modify the Compliance Plan as necessary to better ensure continuing compliance with the Commission’s Rules, and will contemporaneously notify the Bureau in writing of any such modification. Any such modification will not take effect until 25 calendar days after the Bureau’s receipt of Unocal’s notification. If the Bureau

finds that the modification is inconsistent with the terms of the Consent Decree or the Commission's rules or policies, it may disapprove any such modification in writing within 25 calendar days of the Bureau's receipt of Unocal's notification.

15. The Parties acknowledge and agree that this Consent Decree shall constitute a final and binding settlement between Unocal and the Bureau regarding the possible violations of Sections 17.4(g) and 17.23 of the Rules specified by the *NAL*. In consideration for termination by the Bureau of the Enforcement Proceeding and in accordance with the terms of this Consent Decree, Unocal agrees to the terms set forth in this Consent Decree

16. The Bureau agrees that it will not institute on its own motion, any new proceeding, formal or informal, take any action on its own motion, or recommend to the Commission any forfeiture or other sanction, against Unocal for the possible violations of Sections 17.4(g) and 17.23 of the Rules specified by the *NAL*. Nothing in this Consent Decree shall prevent the Bureau from instituting investigations or enforcement proceedings against Unocal in the event of any other alleged misconduct that violates this Consent Decree or that violates any provision of the Act or the Rules.

17. The Parties agree that each is required to comply with each individual condition of this Consent Decree that applies to it. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that Unocal fails to satisfy any condition, in the absence of Commission alteration of the condition, it will be deemed noncompliant and may be subject to possible future enforcement action with respect to such failure to satisfy the condition.

18. The Parties agree that any provision of this Consent Decree which conflicts with any subsequent rule, order of general applicability or other decision of general applicability adopted by the Commission will be superseded by such Commission rule, order or other decision.

19. Unocal agrees to make a voluntary contribution to the United States Treasury in the amount of five thousand dollars (\$5,000) within thirty (30) days of the Effective Date. Such contribution shall be made, without further protest or recourse, by credit card through the Commission's Debt and Credit Management Center at (202) 418-1995, or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 20033278001 and FRN 0001-535-541.

20. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Unocal nor the Commission shall contest the continuing validity of the Consent Decree or Adopting Order. The Parties agree to comply with, defend and support the validity of this Consent Decree and the Adopting Order in any proceeding seeking to nullify, void, or otherwise modify the Consent Decree or the Adopting Order.

21. The Parties agree that in the event that any court of competent jurisdiction renders this Consent Decree invalid, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

22. This Consent Decree cannot be modified except as indicated in paragraph 14.

23. This Consent Decree may be signed in counterparts.

FEDERAL COMMUNICATIONS  
COMMISSION ENFORCEMENT BUREAU

By: \_\_\_\_\_  
David H. Solomon  
Chief, Enforcement Bureau

Date: \_\_\_\_\_

UNION OIL COMPANY OF  
CALIFORNIA

By: \_\_\_\_\_  
Kevin A. Tabler  
Its Attorney-In-Fact

Date: \_\_\_\_\_

## APPENDIX A

**Summary of Part 17 Compliance Plan  
of  
Union Oil Company of California (“Unocal”)**

As part of its effort to ensure compliance with the Communications Act of 1934, as amended, and the FCC’s rules and regulations, Unocal’s IT/Telecommunications group (the “FCC Specialists”) developed, and will implement and oversee, the following Compliance Plan, which shall apply to Unocal’s Swanson River Tower, ASR No. 1059096, and any and all towers hereinafter acquired, constructed, or altered, for which an ASR number shall be required as set forth in paragraphs 1 and 2 below.<sup>App. 1</sup>

**1. Tower Acquisitions:** During pre-closing due diligence, Unocal corporate personnel will obtain the ASR number of all towers being acquired. Prior to closing, Unocal will have field personnel inspect each tower to identify and require that the seller complete (or at least initiate) corrective measures to bring the towers into compliance.

**2. Construction/Alteration:** Responsibility for FAA and FCC compliance has been vested with the FCC Specialists, although they may delegate completion of specific tasks to third party contractors, who will be required to adhere to a compliance inspection schedule established by the FCC Specialists and to report timely the results of such inspections to the FCC Specialists. Prior to construction or alteration of a tower, Unocal will seek a “No Hazard” Determination from the FAA. If necessary, the tower will then be registered with the FCC. Once regulatory approvals have been obtained, the project or construction manager must obtain approval from the appropriate FCC Specialist before construction may commence. Appropriate signs must be posted at this junction, and lighting must be installed at the appropriate points during construction. Within 24 hours after construction ceases or the tower reaches its greatest height, the construction project manager must again obtain confirmation from the FCC Specialist confirming that all construction obligations have been satisfied.

**3. Monitoring of Lighting and Signage:** Responsibility for monitoring lighting and signage on Unocal towers is vested with the FCC Specialists, although such responsibility may be delegated to third party contractors. Pursuant to 47 C.F.R § 17.48, when a lighting outage is detected, a Notice to Airman (“NOTAM”) will be requested from the FAA if the outage cannot be corrected within 30 minutes. Failure of remote monitoring equipment or other communications failure will not relieve Unocal of its responsibility for compliance with FCC regulations. Unocal will provide the FAA with the information necessary to conduct a thorough obstruction evaluation and airport airspace analysis. The data required consists of:

- a. USGS topographical maps marked with the location of each Unocal structure along with notations on corresponding frequencies and power (in watts).
- b. Completed FAA Forms 7460-1 for each structure.

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<sup>App. 1</sup> The scope of the Compliance Plan is restricted to Unocal’s Alaska Business Unit operations. Of Unocal’s Alaska tower inventory, the Swanson River tower is the only one currently exceeding 200 feet for which an ASR number pursuant to FCC regulations is required.

In order to assure regulatory compliance with respect to signage and lighting requirements, Unocal will populate its computerized maintenance management system (CMMS) with each structure identified by the FAA and/or FCC as requiring registration and/or periodic evaluation, and FCC inspections will be scheduled in the CMMS. A designated CMMS Administrator will monitor FCC and FAA daily mailings and web sites for regulations changes and update the CMMS if and when any regulatory changes take place. Roles and responsibilities will be documented to assure the CMMS is updated in a timely manner and that associated policies, procedures and controls are in place and working on a continual basis.

**4. Records of Light Outages:** Unocal will maintain records of all observed or otherwise known lighting outages or improperly functioning lights in accordance with the FCC's Rules. These records will include the nature of the outage or improper functioning; the date or time the outage or improper functioning was observed or otherwise noted; the date and time of FAA notification, if applicable; and the date, time and nature of adjustments, repairs or replacements made.

**5. NOV Responses:** Unocal will update the FCC's Antenna Structure Registration Database via the worldwide web at "<http://wireless.fcc.gov/antenna/>" in order to list its FCC Specialists as contacts, and to help ensure NOVs are timely received. The FCC Specialists are responsible for timely responding to NOVs, in consultation with the appropriate field personnel, Unocal's corporate legal department and outside counsel.

**6. Training:** Unocal is refining its internal compliance memoranda, which covers topics including FAA Notification, FAA Antenna Structure Registration and Sign Posting, and Lighting Requirements and NOTAM procedures. These memoranda and Unocal's training will be regularly refined as necessary and appropriate to effect improvements in compliance matters. In addition, the FCC Specialists will train all new employees with FCC and/or FAA regulatory responsibilities.